IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	:	Barry Sinex	
Appln. No.	:	10/622,148	
Filed	:	July 17, 2003	Group Art Unit: 3661
Title	:	AIRCRAFT MAINTENANCE PROGRAM MANAGER	Examiner: Jeanglaude, Gertrude
Docket No.	:	S834.12-0017	

EXPRESS MAIL COVER SHEET

Mail Stop Non-Fee Amendment
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SENT VIA EXPRESS MAIL
Express Mail No.: EV 302264493 US

Sir:

The following papers are being transmitted via **EXPRESS MAIL** to the U.S. Patent and Trademark Office on the date shown below:

1. Response (in duplicate); and
2. Return receipt postcard.

Respectfully submitted,

KINNEY & LANGE, P.A.

Date: Feb. 9, 2004

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RESPONSE

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Sir:

This is in response to the Office Action mailed on January 9, 2004, in which pending claims 21-56 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,418,361 ("the '361 patent"). Applicant respectfully traverses this rejection.

"A double patenting rejection of the obviousness-type is 'analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. 103' except that the patent principally underlying the double patenting rejection is not considered prior art. *In re Braithwaite*, 379 F.2d 594 (CCPA 1967). Therefore, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. *In re Braat*, 937 F.2d 589 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887 (Fed. Cir. 1985)." M.P.E.P. § 804 (parallel cites excluded). Accordingly, a determination of obviousness-type double patent requires an analysis of the *Graham v. John Deere Co.*, 383 U.S. 1 (1966), factors. Id. Further, any obviousness-type double patenting rejection should make clear:

(A) The differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent.

Id.

The obviousness analysis set forth in the Office Action alleges that the presently claimed invention is obvious over the "means for receiving" element of claim 1 of the '361 patent (highlighted in bold typeface below) because "it would achieve the same result for maintaining the aircraft using the tracking manager or a computer system." Claim 1 of the '361 patent recites:

> An aircraft maintenance tracking system for tracking aircraft maintenance required on an aircraft, the aircraft maintenance tracking system comprising:
> means for tracking accumulated usage data of the aircraft;
> **means for receiving a list of routine tasks required to be performed on the aircraft, each routine task having a control point which defines an interval at which the routine task is to be performed;**
> means for tracking task accomplishment data for each routine task;
> means for determining a maintenance due point for each routine task, the maintenance due point being based upon the control point and the accomplishment data of the routine task;
> means for identifying maintenance due tasks as those routine tasks for which a difference between the maintenance due point of the routine task and the accumulated usage data of the aircraft is less than a user-defined critical value; and
> means for reporting maintenance due tasks.

The relevant inquiry in this obviousness-type double patenting analysis is whether the presently claimed invention is an obvious variation of the **entire invention** claimed by the '361 patent — not just of a **single element of the invention** claimed by the '361 patent. The invention described in claims 21-56 of the present application patentably distinguish from the aircraft maintenance tracking system claimed in the '361 patent. The presently claimed invention is a method and a system for preparing a maintenance plan, while the invention claimed by the '361 patent is a aircraft maintenance tracking system.

Moreover, the presently claimed invention patentably distinguishes from the "means for receiving" element of claim 1 of the '361 patent. Independent claim 21 of the present application requires:

> A computer system for aircraft maintenance comprising:
> a means for identifying a set of maintenance tasks and a set of corresponding control points;
> a means for organizing an initial maintenance program in which maintenance tasks are grouped into a plurality of initial groupings, each initial grouping corresponding to a unique range of control points; and
> means for allowing an operator to modify the initial groupings into a subsequent maintenance program having a subsequent set of control points.

Similarly, independent claim 39 of the present application recites:

> A method for aircraft maintenance comprising:
> identifying a set of maintenance tasks and a set of corresponding control points;
> tracking interval data;
> organizing an initial maintenance program in which maintenance tasks are grouped into a plurality of initial groupings; each initial grouping corresponding to a unique range of control points; and
> allowing an operator to modify the initial groupings into a subsequent maintenance program having a subsequent set of control points.

The "means for receiving" element does not teach, or even suggest, the invention of independent claims 21 and 39. Specifically, the "means for receiving" element teaches only that a set of maintenance and corresponding control points are received; it does not teach that the maintenance tasks are organized into grouping to form a maintenance program. Because the "means for receiving" element does not teach or suggest the presently claimed invention, the obviousness-type double patenting rejection should be withdrawn.

The present patent application is part of a family of 13 patent applications. It is a continuation of U.S. Patent Application No. 09/728,579, entitled "Aircraft Maintenance Program Manager", now U.S. Patent No. 6,606,546. The '579 application was filed contemporaneously with several other patent applications, including the application that resulted in the '361 patent. Applicant respectfully submits that the presently claimed invention patentably distinguishes from the invention claimed in the '361 patent, and requests reconsideration and notice to that effect. The Examiner is

invited to contact the undersigned at the telephone number listed below if such a call would in any way facilitate allowance of the application.

The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982. A duplicate copy of this communication is enclosed.

Respectfully submitted,

KINNEY & LANGE, P.A.

Date: Feb. 9, 2004

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